



Republika e Kosovës
Republika Kosova - Republic of Kosovo



KOMISIONI I PAVARUR PËR MEDIA
NEZAVISNA KOMISIJA ZA MEDIJE - INDEPENDENT MEDIA COMMISSION

CIMC - 2009/02

IMC Regulation on
Qualifications for Granting an IMC Broadcast License

Preamble

Based on article 3.1, 3.2 and 3.3 of the Law on the Independent Media Commission and Broadcasting, as well as based on article 4 of the Broadcasting Policy of the Independent Media Commission (IMC), as well as in accordance with principles of freedom of expression and best European practices, the IMC Council approves this regulation for granting a broadcasting license.

- 1. Purpose:** This Regulation determines the criteria that are requested to fulfill candidates for the IMC License. In evaluating of the submitted requests for IMC License will be applied criteria foreseen in the article 12.4 of the IMC Law and additional criteria determined by the IMC Council in the case of public announcements for new frequencies.
- 2. Competences;**
 - 2.1 Article 2.4 of the IMC Law determines that the IMC regulates the frequency spectrum in Kosovo as well as it licenses public and private broadcasters, in order that the frequency spectrum is used in accordance with the best European practices, including compliance of broadcasting policy determined by the IMC Council.
 - 2.2 According to the article 11.1 of the IMC Law, broadcasting license is required to exercise broadcasting in Kosovo, which is issued by the Independent Media Commission.
- 3. Broadcasting Policy:** In accordance with article 3.1, 3.2 and 3.3 of the IMC Law, the IMC Council has established the broadcasting policy, based on principles of freedom of expression and best European practices. On issuing the licenses the IMC will apply the broadcasting policy encouraging democratic values, greater professionalism, diversity of program content and financial sustainability of broadcast media; to protect freedom of expression by ensuring transparency of media ownership; and to stimulate a market economy through commercial communications.
- 4. Applicability:** Qualifications for an IMC license shall apply to all licenses granted by the IMC.

5. Definitions:

- A. **License:** A license is a conditional, contractual grant of permission by the IMC for radio-TV broadcasting. The License obliges the Licensee to be in compliance with the IMC Law and other relevant laws applied in the Republic of Kosovo, IMC regulations and instructions, as well as with general terms and conditions of the IMC License.
- B. **Licensee:** is a person to which the IMC license is awarded for providing audiovisual services. A Licensee may be:
1. A registered private company including but not limited to a personal business enterprise, a general partnership, a limited partnership, a joint stock or a limited liability company, registered for exercising broadcasting activity through radio or TV;
 2. A Non-Governmental Organization legally registered, in whose activity is included also broadcasting radio or TV programs.
- C. **Ownership:** The holding by a legal person of more than 49 percent (%) of the share capital of a broadcast organization or its equipment.
- D. **Candidate/Applicant:** is any legal person that requests the award of a new IMC license, or who requests approval for the transfer of an existing license or approval of the acquisition of an ownership share in an existing licensee.
- E. **Agent:** An Agent is an individual representing and implementing the instructions of a third party, including but not limited to political organizations.
6. **Qualifications for a License:** An Applicant shall certify in writing compliance with the following qualifications:

A. Legal Presence in Kosovo:

- (1) The company or NGO must be physically present in Republic of Kosovo and to be registered in accordance with the applicable laws of Republic of Kosovo.;
- (2) Also, the representative of the company or NGO, in case of applying for an IMC license, must proof that it is citizen of the Republic of Kosovo.

B. Professional Qualifications:

- (1) An applicant for a license shall demonstrate a commitment and ability to operate a broadcast station in full compliance with IMC regulations including the Broadcast Code of Conduct for

electronic media and the general terms and conditions of IMC license, technical standards and with all secondary legislations approved by the IMC Council;

- (2) Applicants shall demonstrate a commitment and ability to acquire commercial programming and by respecting the copyright law;
- (3) Applicants shall demonstrate a commitment and ability to operate a radio or television station as a business, whether as a for-profit or non-profit entity.

C. Tax Status:

An applicant must be in compliance with relevant tax laws in the Republic of Kosovo. A finding of tax violation by a duly authorized court may serve as a basis for denial a broadcast license.

D. Applicability to Owners of other Media in the Republic of Kosovo:

Diversity encouragement and competition for media markets on a local, regional and Kosovo-wide scale in the Republic of Kosovo, it is an IMC policy. Qualifications for a new or existing license may be governed by a separate Rule on media concentration.

E. Applicability to Foreign Ownership:

Foreign ownership of a broadcast license is permitted only in the case of commercial companies with a legally registered presence in the Republic of Kosovo in conformance with applicable law.

7. Reasons for Disqualification for License:

- A. Government entities:** It is the policy of the IMC not to award broadcast Licenses to the agencies of government or to enterprises or other entities in which government has a controlling interest.
- B. Individuals Who Hold Elective or Appointed Office:**
 - a) No license shall be awarded to an individual who holds elective or appointive public office; nor shall a license be awarded to an NGO whose president, vice-president or executive director hold elected or appointive office;
 - b) No license shall be awarded to a company in which a majority ownership share is held by a person who holds elective or appointive office, unless such person has formally withdrawn from management of the broadcast entity.

c) This provision shall not apply to individuals employed by the Kosovo Civil Service.

C. Individuals who hold a Leadership Position in a Political Party:

The provisions of Section 7 shall apply equally to any individual who holds an elective or appointive leadership position in a political party. The same ones can not hold an leading positions in the organizing structure of the applicant.

D. Organizations and Companies Associated with Political Parties:

No license shall be awarded to an NGO or commercial organization that is demonstrably devoted to the support of a political party.

E. Previous Non-Compliance with IMC regulations:

Serious or repeated violations of IMC regulations by a media organization which an applicant owned, managed or financed may constitute a basis for denial of a new or transferred IMC license or approval of acquisition of an ownership share. Such violations may be taken as evidence of an inability or unwillingness to operate a professional broadcast station in compliance with IMC regulations, including all secondary legislations issued in compliance with the IMC law.

F. Association with Ethnic or Religious Prejudice:

No license or ownership share of a licensee shall be awarded to any organization or commercial enterprise that has demonstrably been associated with the dissemination of materials that encourage hatred or discrimination or that denigrate persons on the grounds of ethnicity, national origin, religion, gender, sexual orientation or physical disability.

G. Criminal violence:

No license shall be awarded, or acquisition of an ownership share in a licensee, to any organization or company in which such any person serves as an officer or senior manager of the applicant has been convicted of a violent crime or a crime of dishonesty.

8. Agents of Potential Licensees: The provisions of this Regulation shall apply fully and equally to any individual, organization or company acting as an agent of a potential licensee.

9. Application under False Pretenses: Failure by an applicant or licensee to disclose information which would have led IMC to deny a License, or to deny approval for the modification or transfer of a license or ownership share of a licensee, under the terms of this Regulation may result in subsequent penalties including disqualification for or revocation of an IMC license.

10. Change in Circumstances of a Licensee: Any change in the status of officers of NGOs or owners of companies that hold an IMC license or ownership share that results in their disqualification for a license shall be reported to the IMC

with five (5) working days of the change in status. A disqualified individual must dissociate himself/herself from the licensee within 30 days of becoming disqualified unless IMC permits a longer period of adjustment. IMC shall seek in such cases to minimize the risk of disruption of operations of the broadcaster.

11. Appeal of Denial: Any applicant who is denied the award of a license or who is denied approval of an ownership share of a licensee may appeal this decision to the Media Appeals Board within 30 days of such denial by the IMC.

12. Entry into force: This regulation will enter into force after the signature.

Argjentina Grazhdani
Chair of IMC Council

Date: 12/06/2009
Prishtina